

Melinda S. Riechert
Jennifer Svanfeldt
Roberta H. Vespremi
MORGAN LEWIS & BOCKIUS LLP
One Market, Spear Street Tower
San Francisco, CA 94105-1596
Telephone: (415) 442-1000
Facsimile: (415) 442-1001
E-mail: mriechert@morganlewis.com
E-mail: jsvanfeldt@morganlewis.com
E-mail: rvespremi@morganlewis.com

Attorneys for Defendants

Jahan C. Sagafi (Cal. Bar No. 224887)
Julia Rabinovich (Cal. Bar No. 290730)
OUTTEN & GOLDEN LLP
One Embarcadero Center, 38th Floor
San Francisco, CA 94111
Telephone: (415) 638-8800
Facsimile: (415) 638-8810
E-mail: jsagafi@outtengolden.com
E-mail: jrabinovich@outtengolden.com

*Attorneys for Plaintiffs and proposed Class Members
(Additional counsel listed on next page)*

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO / OAKLAND DIVISION

JASON ZAJONC and DENNIS FOWLER,
individually and on behalf of all others
similarly situated,

Plaintiffs,

v.

MORGAN STANLEY & CO. LLC,
f/k/a Morgan Stanley & Co. Incorporated,
MORGAN STANLEY SMITH BARNEY
LLC, and MORGAN STANLEY,

Defendants.

CASE NO. 3:14-CV-05563-EMC

**STIPULATION TO TRANSFER FOR
SETTLEMENT PURPOSES &
[PROPOSED] ORDER**

Complaint Filed: December 19, 2014

1 Justin M. Swartz (admitted *pro hac vice*)
OUTTEN & GOLDEN LLP
2 3 Park Avenue, 29th Floor
New York, New York 10016
3 Telephone: (212) 245-1000
Facsimile: (646) 509-2060
4 E-mail: jms@outtengolden.com

5 Gregg I. Shavitz (admitted *pro hac vice*)
Susan H. Stern (admitted *pro hac vice*)
6 Paolo C. Meireles (admitted *pro hac vice*)
SHAVITZ LAW GROUP, P.A.
7 1515 S. Federal Hwy., Suite 404
Boca Raton, Florida 33432
8 Telephone: (561) 447-8888
Facsimile: (561) 447-8831
9 E-mail: gshavitz@shavitzlaw.com
E-mail: ssstern@shavitzlaw.com
10 E-mail: pmeireles@shavitzlaw.com

11 Michael J. Palitz (admitted *pro hac vice*)
SHAVITZ LAW GROUP, P.A.
12 30 3rd Avenue, 5th Floor
New York, NY 10022
13 Telephone: (800) 616-4000
Facsimile: (561) 447-8831
14 E-mail: mpalitz@shavitzlaw.com

15 Seth R. Lesser (admitted *pro hac vice*)
Fran L. Rudich (admitted *pro hac vice*)
16 KLAFTER OLSEN & LESSER, LLP
Two International Drive, Suite 350
17 Rye Brook, NY 10573
Telephone: (914) 934-9200
18 Facsimile: (914) 934-9220
E-mail: seth@klafterolsen.com
19 E-mail: fran@klafterolsen.com

20 *Attorneys for Plaintiffs and proposed Class Members*
21
22
23
24
25
26
27
28

1 Plaintiffs Jason Zajonc and Dennis Fowler (“Plaintiffs”) and Defendants Morgan Stanley
2 & Co., LLC, f/k/a Morgan Stanley & Co. Incorporated, Morgan Stanley Smith Barney LLC, and
3 Morgan Stanley (“Defendants” or “Morgan Stanley”) hereby stipulate and agree as follows:

4 WHEREAS, the parties have agreed to a comprehensive settlement agreement (the
5 “Settlement Agreement”) that provides for the settlement of this action as well as three additional
6 cases: *DeVries v. Morgan Stanley & Co., LLC*, Case No. 12-81223 (S.D. Fla); *Johnson v.*
7 *Morgan Stanley & Co., LLC*, Case No. 1:15-cv-04865-RJS (S.D.N.Y.); and *Hix v. Morgan*
8 *Stanley & Co., LLC*, Case No. 1:15-cv-01157-MJG (D. Md.);

9 WHEREAS, as *Devries* is the most advanced action and involves the most opt-ins, the
10 Settlement Agreement provides for, and the parties hereby stipulate to transfer this action, along
11 with *Johnson*, and *Hix*, to the Southern District of Florida so that the Honorable Kenneth A.
12 Marra can consider the fairness of the entire settlement;

13 WHEREAS, the four actions all concern Defendants’ alleged failure to pay overtime for
14 all hours worked to either pre-production Financial Advisor Associates (*DeVries* and this action),
15 Client Service Associates (*Johnson*) and Service Associates (*Hix*). Each position is eligible for
16 overtime under Morgan Stanley’s policies, and Plaintiffs allege they were entitled to be
17 compensated for overtime for all hours worked over 40 per workweek. The Settlement
18 Agreement provides for compensation to each of these groups of employees. The Settlement
19 Agreement further provides that the parties in *Johnson*, *Hix* and this case will jointly seek to have
20 their respective cases transferred to Florida for consolidation with *DeVries* before Judge Marra
21 solely for the purpose of settlement;

22 WHEREAS, in *DeVries*, the Court conditionally certified a collective of pre-production
23 Financial Advisor Associates, 433 members of the collective opted in, including Plaintiff Jason
24 Zajonc, second phase discovery was completed and motions for final certification/decertification
25 and summary judgment were fully briefed and pending before the Court at the time the Settlement
26 Agreement was reached. It is therefore, by far, the most advanced case of the four actions being
27 settled and Judge Marra has the most familiarity with the compensation issues that are at the heart
28 of each of the cases;

1 WHEREAS, 28 U.S.C. § 1404(a), provides that “For the convenience of parties and
2 witnesses, in the interest of justice, a district court may transfer any civil action to any other
3 district or division where it might have been brought or to any district or division to which all
4 parties have consented.” This stipulated transfer satisfies each of these requirements;

5 WHEREAS, the stipulated transfer is for the convenience of those parties who have
6 entered into a settlement that is a part of an omnibus settlement of the four actions. It would be
7 unnecessarily burdensome on the parties to have to seek approval of the Settlement Agreement in
8 this Court and before Judge Marra. Similarly, judicial efficiency would be undermined if more
9 than one court were to address the same settlement;¹

10 WHEREAS, the parties alerted Judge Marra to the settlement of *DeVries, Johnson, Hix,*
11 *and Zajonc* on March 9, 2016, and also advised him that the parties had agreed to transfer
12 *Johnson, Hix, and Zajonc* to him for approval as part of an omnibus settlement; and

13 WHEREAS Judge Marra responded positively, congratulating the parties on their
14 amicable resolution of these matters and ordering that the preliminary settlement approval papers
15 be filed by June 22, 2016. *See DeVries* Dkt. No. 506 & 512.

16 THEREFORE, the parties hereby stipulate and agree to transfer venue for this case for
17 settlement purposes to the Southern District of Florida, and respectfully request that the Court
18 grant that transfer in time for the June 22, 2016 settlement approval filing.

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26
27 ¹ If the settlement is ultimately not approved by the Court in Florida, the parties will move to
28 have this action transferred back to this Court for further proceedings.

1 Dated: June 10, 2016

Respectfully submitted,

2 By: /s/ Roberta H. Vespremi
3 Roberta H. Vespremi

4 Melinda S. Riechert
5 Jennifer Svanfeldt
6 Roberta H. Vespremi
7 MORGAN LEWIS & BOCKIUS LLP
8 One Market, Spear Street Tower
9 San Francisco, CA 94105-1596
10 Telephone: (415) 422-1486
11 Facsimile: (415) 422-1001
12 E-mail: mriechert@morganlewis.com
13 E-mail: jsvanfeldt@morganlewis.com
14 E-mail: rvespremi@morganlewis.com

15 *Attorneys for Defendants*

1 Dated: June 10, 2016

By: /s/ Jahan C. Sagafi
Jahan C. Sagafi

2 Jahan C. Sagafi (Cal. Bar No. 224887)
3 Julia Rabinovich (Cal. Bar No. 290730)
4 OUTTEN & GOLDEN LLP
5 One Embarcadero Center, 38th Floor
6 San Francisco, CA 94111
7 Telephone: (415) 638-8800
8 Facsimile: (415) 638-8810
9 E-mail: jsagafi@outtengolden.com
10 E-mail: jrabinovich@outtengolden.com

11 Justin M. Swartz (admitted *pro hac vice*)
12 OUTTEN & GOLDEN LLP
13 3 Park Avenue, 29th Floor
14 New York, New York 10016
15 Telephone: (212) 245-1000
16 Facsimile: (646) 509-2060
17 E-mail: jms@outtengolden.com

18 Gregg I. Shavitz (admitted *pro hac vice*)
19 Susan H. Stern (admitted *pro hac vice*)
20 Paolo C. Meireles (admitted *pro hac vice*)
21 SHAVITZ LAW GROUP, P.A.
22 1515 S. Federal Hwy., Suite 404
23 Boca Raton, Florida 33432
24 Telephone: (561) 447-8888
25 Facsimile: (561) 447-8831
26 E-mail: gshavitz@shavitzlaw.com
27 E-mail: sstern@shavitzlaw.com
28 E-mail: pmeireles@shavitzlaw.com

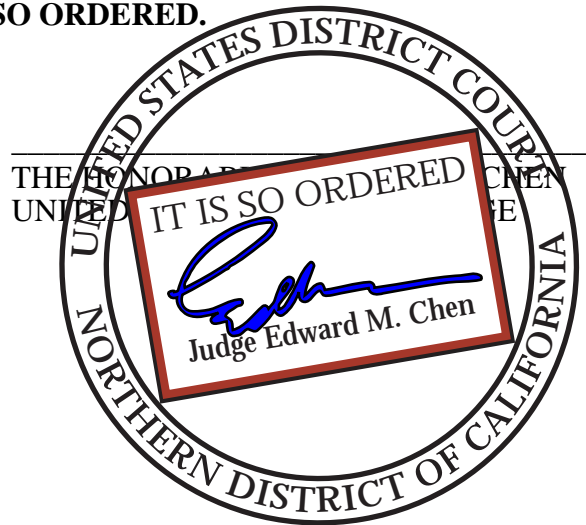
Michael J. Palitz (admitted *pro hac vice*)
SHAVITZ LAW GROUP, P.A.
30 3rd Avenue, 5th Floor
New York, NY 10022
Telephone: (800) 616-4000
Facsimile: (561) 447-8831
E-mail: mpalitz@shavitzlaw.com

Seth R. Lesser (admitted *pro hac vice*)
Fran L. Rudich (admitted *pro hac vice*)
KLAFTER OLSEN & LESSER, LLP
Two International Drive, Suite 350
Rye Brook, NY 10573
Telephone: (914) 934-9200
Facsimile: (914) 934-9220
E-mail: seth@klafterolsen.com
E-mail: fran@klafterolsen.com

Attorneys for Plaintiffs and Proposed Class Members

1 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

2
3 Dated: June 13, 2016



ATTESTATION OF SIGNATURE

Pursuant to Civil Local Rule 5-1(i)(3), the filer of this document attests that concurrence in the filing of this document has been obtained from the other signatory above.

DATED: June 10, 2016

MORGAN, LEWIS & BOCKIUS LLP

By: /s/ Roberta H. Vespremi

Attorneys for Defendants